

**MINUTES OF THE
PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE**

Wednesday, June 14, 2000 – 2:00 p.m. – Room 223 State Capitol

Members Present:

Sen. Lorin V. Jones, Co-Chair
Rep. Sheryl L. Allen, Co-Chair
Sen. Leonard M. Blackham
Sen. Mike Dmitrich
Sen. Howard C. Nielson
Rep. Ralph Becker
Rep. Chad E. Bennion
Rep. Blake D. Chard
Rep. David N. Cox
Rep. Gary F. Cox
Rep. Brent H. Goodfellow
Rep. David M. Jones
Rep. Gordon E. Snow
Rep. Martin R. Stephens
Rep. John E. Swallow
Rep. David Ure

Members Absent:

Rep. Melvin R. Brown
Rep. Kevin S. Garn

Members Excused:

Sen. Joseph L. Hull
Rep. Tom Hatch

Staff Present:

Mr. Richard North,
Research Analyst
Ms. Tani Pack Downing,
Associate General Counsel
Ms. Junie G. Anderson,
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order - Chair Allen called the meeting to order at 2:14 p.m. She briefed committee members on the tentative study plan schedule as follows:

July 12 – Balancing factors, "Just and Reasonable" criteria for decision making, and wrap-up of Settlement Conference

Aug 16 – Pass Through Accounts, Affiliates Transactions, and the Regulatory Fee Change to a Tax

Sept (tentative date) – Draft language for HB 320

Oct 18 – Draft language of HB 320

Nov 1– Discussion of final draft of HB 320

Nov 15 – Receive statutorily required reports from other legislative committees, i.e., electrical deregulation, the annual report from the Public Service Commission, the annual report from the Chief Information Officer, and Information Technology Commission bills.

MOTION: Sen. Jones moved to approve the minutes of the May 17, 2000 meeting. The motion passed unanimously with Sen. Nielson and Rep. Jones absent for the vote.

2. 50 State Survey Report On Independent Consumer Agencies Including A Definition of "Independent" And The Criteria For Membership In The National Association Of State Utility Consumer Advocates (NASUCA).

Mr. North briefed the committee on the "National 50 State Survey of Consumer Advocate Agencies" that was mailed to committee members prior to the meeting. The report included information such as which states have an independent consumer advocate, where it is organizationally located, who the advocate represents, and whether there is an advisory or policy board.

Ms. Downing briefed the committee on the 50 State Survey by the "Utah Department of Commerce, Division of Public Utilities (DPU)" that was also mailed prior to the meeting which shows where the regulatory staff for the states' utility commissions are organizationally located.

HB 320 Interim Review - Regulatory & Consumer Advocate Agencies - A handout titled "Organizational Structure" was distributed which contained the following material: Utah Code - Current Statutes for Committee of Consumer Services (CCS) and the Division of Public Utilities; Organizational Chart Under Existing Practices; Organizational Chart Under HB 320; Characteristics of consumer and regulatory functions from the June 1, 2000 meeting with interested persons; a list of persons attending the June 1, 2000 meeting; positions of AARP, AT&T, CCS, League of Women Voters, Questar, and bios for Mr. Matthew Brown, Mr. Fred Schmidt, and Mr. Bob Burns.

Mr. Matthew Brown, Program Director, National Association of State Legislatures, Energy Utilities, gave a slide presentation titled "The Structure of Consumer Advocate's Offices." He discussed the purpose, the history, the structure, and the oversight of the Consumer Advocate's Office. He also discussed the examples from other states regarding their consumer advocacy functions and stated that an "independent" consumer advocate means independent from the commission's influence and not independence from any oversight.

Mr. Brown also distributed and discussed handouts titled "Sample Mission Statements From Consumer's Advocate Offices" and "Comparison of OPUC to Similar State Offices Nationwide."

Mr. Fred Schmidt, President - 1999, National Association of State Utility Consumer Advocates, urged the committee to reconsider the statutory provisions found in HB 320. His comments were outlined in a document titled "Testimony of Frederick Schmidt on Behalf of State Utility Consumer Advocates" that was distributed in the "Organizational Structure" packet. He stressed the importance of having a strong, effective consumer advocate in our state. He also

stated that the consumer advocate should be independent and not placed within the Public Service Commission.

Mr. Schmidt also discussed a letter, included in the "Organizational Structure" packet, addressed to Governor Leavitt from him and Frankie Sue Del Papa, Attorney General for the State of Nevada, urging the governor not to approve HB 320 that would abolish the Committee of Consumer Services in the Department of Commerce.

Mr. Bob Burns, Senior Research Specialist/Attorney, National Regulatory Research Institute (NRRI), said the NRRI is concerned about the possible unfair monopoly leverage anti-trust action. He said there is a definite need for an independent consumer advocacy role to prevent a monopoly of services by a utility and to reach a fair settlement in negotiations. He spoke about the "slamming" issue and settlement issues.

Ms. Downing asked about the trends of an adjudicatory versus a legislative model of commissions in other states. Mr. Brown, Mr. Burns, and Mr. Schmidt shared their knowledge of how commissions are using more alternative dispute resolution methods to solve issues between the parties where possible. Mr. Schmidt said the nationwide trend is to use dispute resolutions as the alternative to adjudicatory proceedings. He encouraged the dispute resolution method and offered several ways that the Legislature might also encourage its use. He said Nevada has restructured its utility commission to include more economists, business analysts, and lawyers with the ability to effectuate solutions. Some courts are mandating a settlement conference prior to litigation. He specified that litigation should be a last resort.

Mr. Schmidt also said an advocate should be accountable to the public by reporting to an elected official. He noted the only independence he recommends is that the entity which represents consumers should be independent from the judge or decision maker and the entity charged with balancing the interests of consumers and utilities.

Mr. Brown, Mr. Burns, and Mr. Schmidt all agreed that the consumer advocate office should be independent from the commission.

Mr. Charles Greenhawt, Questar, indicated that Questar has hired Deloitte & Touche, LLP to conduct their own 50 State Survey regarding consumer advocates and that the preliminary information confirmed the information in staff's 50 State Survey.

3. Adjourn -

MOTION: Rep. Bennion moved to adjourn the meeting at 4:31 p.m. The motion passed unanimously with Sen. Blackham and Rep. Jones absent for the vote.

